

Commodity Futures Trading Commission

§ 12.13

(e) *Length and form of briefs.* All briefs filed with the Proceedings Clerk containing more than 10 pages shall include an index and a table of cases and other authorities cited. The date of each brief shall appear on its front cover or title page and on its signature page. No brief shall exceed 35 pages in length, except with the permission of the Commission, or the Judgment Officer or Administrative Law Judge, before whom the matter is then pending.

[49 FR 6621, Feb. 22, 1984, as amended at 73 FR 63361, Oct. 24, 2008]

§ 12.12 Signature.

(a) *By whom.* All documents filed with the Commission shall be signed personally:

(1) By the person or persons on whose behalf they are tendered for filing;

(2) By a general partner, officer or director of a partnership, corporation, association, or other legal entity; or

(3) By an attorney-at-law having authority with respect thereto.

The Proceedings Clerk may require appropriate evidence of the authority of a person subscribing a document on behalf of another person.

(b) *Effect.* The signature on any document of any person acting either for himself or as attorney or agent for another constitutes certification by him that:

(1) He has read the document subscribed and knows the contents thereof;

(2) If executed in any representative capacity, it was done with full power and authority to do so;

(3) To the best of his knowledge, information, and belief, every statement contained in the document is true and not misleading; and

(4) The document is not being interposed for delay.

§ 12.13 Complaint; election of procedure.

(a) *In general.* Any person complaining of a violation of any provision of the Act or a rule, regulation or order of the Commission thereunder by any person who is a registrant (as defined in § 12.2) may, at any time within two years after the cause of action accrues, apply to the Commission for a reparation award by filing a written com-

plaint which satisfies the requirements of this rule.

(b) *Form of complaint.* The form of each complaint filed under paragraph (a) of this section shall meet the following requirements:

(1) *Content.* Each complaint shall include:

(i) The name, residence address, and telephone number (during business hours) of the complainant;

(ii) The name, address, and telephone number, if known, of each person alleged in the complaint to have violated the Act or any rule, regulation or order thereunder;

(iii) If known, the specific provisions of the Act, rule, regulation, or order claimed to have been violated;

(iv) A complete description of complainant's case, including, but not limited to:

(A) A description of all relevant facts concerning each and every act or omission which it is claimed constitutes a violation of the Act; and

(B) A description of all facts which show or tend to show the manner in which it is claimed that the complainant was injured by the alleged violations;

(v) The amount of damages the complainant claims to have suffered and the method by which those damages have been computed, the amount of punitive damages (no more than two times the amount of such actual damages) the complainant claims, if any, and how complainant plans to demonstrate that punitive damages are appropriate;

(vi) A statement indicating whether an arbitration proceeding or civil court litigation, based on the same set of facts set forth and involving any party named as a respondent in the complaint, has been instituted, and whether such a proceeding has reached a final disposition or is presently pending;

(vii) A statement indicating whether any of the respondents is the subject of receivership or bankruptcy proceedings that are presently pending;

(viii) An election of a decisional procedure pursuant to subpart C, D, or E. (A procedure pursuant to subpart D may be elected only if the total amount of damages claimed, exclusive

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of interest and costs, does not exceed \$30,000. A procedure pursuant to subpart E may be elected only if the total amount claimed as damages, exclusive of interest and costs, exceeds \$30,000; and

(ix) A filing fee in the amount prescribed by §12.25 of these rules shall be submitted with the complaint at the time of its filing.

(2) *Subscription and verification of the complaint.* Each complaint shall be signed personally by an individual complainant or by a duly authorized officer or agent of a complainant who is not a natural person. His signature shall be given under oath or affirmation under penalty of law attesting either that he knows the facts set forth in the complaint to be true, or that he believes the facts set forth to be true, in which event the information upon which he formed that belief shall be set forth with particularity.

(3) *Time and place of filing of complaint.* A complaint shall be filed by delivering a copy thereof, in proper form, to the Commission at its principal offices in Washington, DC, addressed to the Office of Proceedings, attention of the Proceedings Clerk. The complaint may be filed in person, during normal business hours, or by certified mail, or registered mail with return receipt requested. If filing is by mail, it shall be addressed to the Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The complaint shall not be served on any person or party named therein. Upon the filing of the complaint and the appropriate filing fee, the Proceedings Clerk shall assign a docket number to the matter and shall maintain the official docket.

(4) *Bond required if complainant is nonresident; filing date of nonresident's complaint.* (i) If a complaint in reparations is filed by a nonresident of the United States, the complaint shall not be considered duly filed in proper form unless it is accompanied by:

(A) A bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States or two personal sureties, each of whom shall be a citizen of the United States and shall

qualify as financially responsible for the entire amount of the bond, which bond shall run to the respondent and be conditioned upon the payment of costs (including reasonable attorney's fees, for the respondent if the respondent shall prevail) and any reparation award that may be issued by the Commission against the complainant on any counterclaim asserted by respondent; or

(B) A written request that the bond requirement be waived in accordance with section 14(c) of the Commodity Exchange Act, accompanied by sufficient proof that the country of which the complainant is a resident permits the filing of a complaint by a resident of the United States against a citizen of that country without the furnishing of a bond.

(ii) The provisions of paragraphs (b)(4)(i)(A) or (b)(4)(i)(B) of this section must be satisfied within two years after the complainant's cause of action accrues.

(iii) When mailed from a foreign country, a nonresident's complaint shall be deemed filed on the date that it is received in proper form by the Commission's Proceedings Clerk, not on the date of mailing from the country of origin.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 51 FR 35507, Oct. 6, 1986; 59 FR 9636, Mar. 1, 1994; 60 FR 49335, Sept. 25, 1995]

§ 12.14 Withdrawal of complaint.

At any time prior to service of notification to the complainant pursuant to §12.15(a) of the Director of the Office of Proceedings' determination to forward the complaint to a registrant, complainant may file a written notice of withdrawal of the complaint which shall terminate the Commission's consideration of the complaint without prejudice to complainant's right to re-file a reparations complaint based upon the same set of facts within two years after the cause of action accrues. If the complainant has previously filed a notice of withdrawal of a complaint based upon the same set of facts, the notice of withdrawal of complaint shall terminate the case with prejudice to complainant's rights to re-file a complaint in reparations based on the same set of